

**Before the
Federal Communications Commission
Washington, DC. 20554**

In the Matter of)	
)	
Authorizing Permissive Use of the “Next)	GN Docket No. 16-142
Generation” Broadcast Television Standard)	
)	

**REPLY COMMENTS OF THE
LPTV SPECTRUM RIGHTS COALITION
JUNE 8, 2017**

The LPTV Spectrum Rights Coalition¹, (“the Coalition”), replies to the following comments related to the proposed authorization of permissive use of the Next Generation broadcast television standard:

1. WatchTV, Inc. –
 - a. We agree with WatchTV that the Commission should, “...*grant all television broadcasters the discretion to convert to ATSC 3.0 at a date of their own choosing, including during the spectrum repacking process when much equipment will be replaced...*”.
 - b. We agree with WatchTV that, “...*the Commission (should) adopt the same 4% standard that it applies to “failing station” waivers of its multiple ownership rules, exempting any station with not more than a 4% all-day audience share in its Designated Market Area from transition timing, lighthouse, and consumer notification requirement that might otherwise apply.*”.
 - c. We agree with WatchTV that “...*TVStudy will provide sufficient, if not excess, protection to and from stations operating in the same 3.0 format or in different 1.0 and 3.0 formats.*”
 - d. We agree with WatchTV that, “*Stations should be permitted to take advantage of the full capabilities of the new standard from the outset, including deploying distributed transmission (“DTS”) gap fillers.*”
 - e. We agree with WatchTV that, “*While ultimately, the Commission may decide to adopt a uniform basic ATSC 3.0 component, JTSC 3.0 is an inherently flexible technology, and standards-setting should not be allowed to impede its developmental progress.*”

¹ The LPTV Spectrum Rights Coalition, LLC, is a research, education, and lobbying effort of 100’s of Class A, LPTV, and TV translators with over 1500 FCC licensees and permittees. Since 2013 it has been providing key data to illustrate the impacts from the incentive auction and repack will have on the almost 10,000 already issued licenses and permits.

- f. We agree with WatchTV that, *“Few of these stations are carried by multichannel video program distributors (“MVPDs”), so there is little risk that a Class A or LPTV station will transition prematurely to ATSC 3.0 on the theory that most of its viewers watch on cable or satellite.”*
- g. We agree with WatchTV that, *“...these [Class A and LPTV] broadcasters have the greatest economic incentive to improve their stations, because their business model has changed since the digital transition.”*
- h. We agree with WatchTV that, *“Interference Protection Will Be Adequate, and the replacement of 8VSB with OFDM technology, when television moves from ATSC 1.0 to ATSC 3.0, will offer significant advantages in terms of interference management and control, because ATSC 3.0 has a large number of separate carriers that can be turned on and off as needed.”*
- i. We agree with WatchTV in, *“...how the “Broadcast Service” should be maintained...The Commission made it clear in the NPRM that it expects TV broadcasters to continue to broadcast and to meet whatever public interest standards apply to their class of station. 8 The Commission noted that “broadcasting” is defined as “the dissemination of radio communications intended to be received by the public, directly, or by intermediate relay stations.” Nothing in that definition requires that every station in a given service must transmit with the same format, and there is no justification for the Commission to impose such a requirement on the transition to ATSC 3.0. The Commission correctly cited the Subscription Video case for the proposition that broadcasting is negated when the party transmitting the content controls reception through a requirement to register and pay a fee enforced through encryption. Otherwise, if a signal is disseminated into the air with no requirement to register or to pay to receive, and receivers are available from outside sources that can display the picture and sound without proprietary decryption, then the entity transmitting that signal is “broadcasting” within the meaning of the Communications Act. Thus as long as a free and uncontrolled video program stream is provided by a TV station, regardless of format as long as it is not encrypted and receivers are available to the public from outside sources, that station should be deemed to remain a broadcast station and be eligible to retain its license and to choose its own unencrypted format.”*

2. COMMENTS OF AMERICA’S PUBLIC TELEVISION STATIONS, THE AWARD ALLIANCE, THE CONSUMER TECHNOLOGY ASSOCIATION AND THE NATIONAL ASSOCIATION OF BROADCASTERS (APTS-TAA-CTA-NAB)

- a. We agree with APTS-TAA-CTA-NAB in that, *“In this proceeding, the Commission’s goal should be to provide broadcasters with as much flexibility as possible, consistent with their public interest obligations. The Commission should allow the market, not regulatory dictates, to determine whether or not Next Gen is successful.”*
- b. We agree with APTS-TAA-CTA-NAB in that, *“Commission rules requiring broadcasters to transmit specific streams of programming would be unprecedented and would set the Commission on a slippery slope towards content regulation. Just as the Commission has no authority to dictate which of a station’s multicast streams should constitute its primary stream for carriage purposes, the Commission should not substitute its judgment for that of local broadcasters.”*

- c. We agree with APTS-TAA-CTA-NAB in that, “...the NPRM appears to contemplate imposing a higher regulatory burden on stations that choose to invest in their facilities to provide a superior service to viewers. Raising regulatory hurdles in this proceeding will discourage investment and innovation. The Commission’s role should be to encourage advancements that will benefit consumers, not create obstacles. Accordingly, the Commission should not raise additional regulatory hurdles by heightening broadcasters’ existing obligations.”
- d. We are nervous about this APTS-TAA-CTA-NAB statement, “allowing broadcasters to use vacant in-band channels, subject to FCC approval and for the duration of the transition, could further help reduce viewer disruption. Such action would encourage innovation and help protect viewers while also maximizing the efficient use of scarce spectrum resources.”

Does this mean the primaries can just grab vacant channels which LPTV licensees and permittees will need for displacements? The 1000s of displaced LPTV construction permits will not have a filing window until 2019 or later. Will this proposal to use in-band vacant channels prevent these valid CP holders the opportunity to obtain a channel assignment?

3. ADVANCED TELEVISION BROADCASTING ALLIANCE (ATBA)

- a. We agree with ATBA in that, “No station, low power or full power, should be denied the opportunity to deploy an innovative new technology simply because all spectrum for transition companion channels has been reallocated to other uses and cross-hosting of ATSC 1.0 and 3.0 broadcasts is not feasible.”
- b. We agree with ATBA in that, “ATSC 3.0 capability must be included in any “apparatus designed to receive television pictures broadcast simultaneously with sound,” including all devices that include an RF front end receiver, hardware and software to decode and process audiovisual programming, and high resolution screens and audio outputs”

The use of the All Channels Receiver Act (ACRA) to mandate ATSC 3.0 is not a free market friendly concept, but just may be the catalyst for wide spread adoption of Next Gen services, especially advanced warning services. Deployment of Next Gen could be severely slowed down because of the lengthy repacking process. So if the FCC were to choose a date post-repack, that would allow the repacking timeline and the 3.0 timeline to merge in a more market neutral manner.

4. ONE MEDIA, LLC (ONE MEDIA)

- a. We strongly disagree with One Media when they state, “The Commission should give broadcasters proposing to use a vacant channel for 3.0 deployment priority over applicants for new television stations and acknowledge that such stations retain priority over displacement applications of LPTV and translator stations.”

If the FCC attempts to approve what One Media is suggesting, it would slow down the implementation of the Next Gen service because of the legal cases which would be brought against the rulemaking. Congress, in the incentive auction legislation, specifically said that the FCC could not alter LPTV spectrum usage rights in the auction and repacking process. To accomplish what One Media is suggesting would diminish LPTV licensee rights to not have a channel to displace to right in the middle of the displacement process. Even if the FCC were to give primary stations a temporary channel for 3.0, and then let LPTV use that channel when its' temporary usage is completed, this could mean many years that those temporary channels are taken out of the pool of available displacement channels. The FCC simply can not interject into the incentive auction repacking process a new type of displacement channel prioritization!

- b. We disagree with One Media when they state, *“Channel 45 may be the best candidate for a temporary “lighthouse” channel in many markets. Although not optimum for long-term use as wireless carriers begin deployment as the channel sits in the “duplex gap,” use of the channel to jump-start Next Gen deployment can be accomplished with minimum impairment to use of the 600 MHz band by wireless carriers.”*

If the FCC wants to entertain the usage of channel 45, displace LPTV and translators should have a priority for using the channel if all other displacement channels in that market are taken. No Next Gen usage of channel 45 should happen unless all LPTV and translators have first been awarded new displacement channels.

- c. We both agree and disagree with One Media when they state, *“Because of the lack of receivers early in the transition, LPTV stations will likely not to be the first to deploy and will likely continue to offer 1.0 services. In some cases, though, LPTV licensees may see a market opportunity in being among the first to transition, so that they can offer a higher value, differentiated service. Such stations should be allowed to simulcast the signal of any other station without a reciprocal obligation of the full power to simulcast the low power station.”*

We do not agree that LPTV stations will be slow to convert to Next Gen because of a lack of receivers. But we do agree that no reciprocal obligation of the full power to simulcast the low power station should be made.

- d. We agree with One Media when they state, *“Imposing a simulcast requirement on LPTV stations is unlikely to yield any significant or measureable improvement in service to the public and should be avoided. Imposing a simulcast obligation when it is impossible simply means that many LPTV stations will never deploy. At some point most LPTV stations will have to choose to flash cut. The Commission is not equipped to determine when the best time to change is for thousands of local LPTV stations.”*
- e. We agree with One Media when they state, *“...the Commission should confirm that broadcasters may further extend and enhance service by entering into voluntary interference agreements with co-channel and adjacent channel stations.”*

This could be especially useful for LPTV which have adjacent market interference issues, which in the auction repack the industry could see a lot of examples of. An LPTV, which normally would be displaced by an adjacent market interference, could be a perfect candidate for an SFN

rather than a victim of displacement. The FCC needs to make sure any rules established for interference take this into account. 1.0 and 3.0 are totally different in how interference may be considered.

- f. We disagree with One Media about extending a station's coverage by lacking the DTS rules, if those rules eliminated LPTV station which have found acceptable channels by operating at the "edge" of where the signal of the primary drops off. Any change to the DTS rules needs to be studied in depth related to LPTV displacements. And no rule changes should be implemented in the 39-month auction repacking process, and until all displaced licensed stations and issued displaced construction permits have found new channels.
- g. We are very concerned when One Media says, *"If the Commission restricts expansion via SFNs to the Comparable Area Approach used for DTS, we ask the Commission to make one important conforming change. The DTS rules permit a DTS station to use the "largest station" alternative rather than the DTS Table of Distances."*

We fear that by adopting this change, the FCC could inadvertently displace numerous LPTV stations, again which are licensed "in between" adjacent market primaries. It would be very unfortunate for LPTV which are displaced by the auction and repacking to then again be displaced by an SFN/DTS "coverage grab" by a primary to areas well outside the primaries' community of license. Coalition research shows that as many as 20% of all top 25 market LPTV channel assignments are co-channel assignments, meaning stations on the same channel in the same market are geographically spread out enough for interference to be acceptable.

- h. We are very concerned when One Media proposes, *"...the Commission should abandon efforts to define service areas and instead should provide broadcasters flexibility to deploy in whatever manner the market demands."*

The FCC should reject the abandonment of service areas, as it is a key concept of the post auction repacking process, and LPTV and TV translator displacement process. Without a proper study of the unintended LPTV displacement consequences of this type of rule change, we are against it.

- i. We strongly disagree with One Media when they propose, *"Stations should be permitted and encouraged to offer service to the maximum extent possible, in response to market demand, so long as they do not expand their interference footprints vis-à-vis other existing or authorized primary licensees (predominantly, other television stations) and thereby cause new interference."*

As we have stated above, the concept of "maximum extent possible" should not be used as the benchmark for what should be allowed, since it could, without study, eliminate valuable diverse content which LPTV is providing. Coverage areas are coverage areas, and unless a complete study of LPTV displacements is done based on a new rule, no new rule should be made at this time.

- j. We agree with One Media that, *"Since broadcasters voluntarily deploying the Next Gen standard will assume all costs associated with the deployment and will assume all business risks in providing these innovative services, the rationale for a significant payment to the government associated with gross revenues of ancillary services requires reassessment."*

If the FCC eliminates or changes the ancillary fee rules, they should do so that does not disadvantage LPTV in any way, or give any advantage to primary broadcasters which have ancillary fee requirements.

5. PUBLIC BROADCASTING SERVICE, CORPORATION FOR PUBLIC BROADCASTING, AND AMERICA'S PUBLIC TELEVISION STATIONS (PTV)

- a. We disagree with PTV in that, *"...it would be incredibly helpful if such stations were permitted to use vacant in-band channels to serve as host facilities during the ATSC 3.0 transition to best serve their local viewers (and fulfill the simulcast mandate if adopted)."*

Any use of "vacant channels" BEFORE all licensed and permitted LPTV and TV translators have had the opportunity to find and secure displacement channels is totally against the intent of Congress to not change LPTV rules in the auction and repacking process.

- b. We strongly disagree with PTV in that, *"The Commission should permit broadcasters to establish LPTV stations using vacant in-band channels in order to serve their viewers with both an ATSC 1.0 and an ATSC 3.0 signal, effectively partnering with themselves to simulcast and maximize the availability of content for everyone in the community. Stations could either broadcast in ATSC 1.0 on the new LPTV station while converting their full-power facilities to ATSC 3.0, or stations could alternatively establish the new LPTV station to test an ATSC 3.0 feed while maintaining an ATSC 1.0 broadcast on their full-power facilities."*

The FCC should not open a new special LPTV filing window just so that PTV licensees can deliver both a 1.0 and 3.0 signal. There is already a backlog of 1000s of LPTV new construction permits which must first be allowed to find displacement channels before any new window can be even thought of. Why is PTV not asking to lease or purchase existing LPTV stations and permits? Any LPTV licensee they create will not have must carry rights, so why not lease or buy existing LPTV licenses and construction permits?

- c. We agree with PTV in that, *"The origination approach would establish a regulatory framework whereby the Commission would ascribe each broadcast feed to the originating licensee rather than to the transmitting licensee."*

Could not this approach also work for PTV if they lease existing LPTV stations but still want to maintain their MVPD carriage rights? But allowing this change from originating to transmitting licensee should mean that any LPTV licensee could do the same. What if a full power primary station provided a national feed to LPTV stations, would not all of those affiliates then also have must carry status?

6. NEXSTAR BROADCASTING, INC.

- a. We agree with Nexstar in that, “...*life-saving possibilities are reason enough to expedite the authorization of the ATSC 3.0 transmission standard for the deployment by the television broadcast industry on a voluntary basis.*”
- b. We disagree with Nexstar when they state, “*Nexstar further urges the Commission to permit stations to utilize vacant in-band channels on a market-wide basis as a collective location for the market’s stations to initiate either ATSC 3.0 and/or a shared ATSC 1.0 facilities.*”

The use of vacant in-band channels is totally outside of the existing FCC broadcast television rules, and would greatly disadvantage the 1000s of existing LPTV licenses and new permits already authorized to locate displacement channels. THE USE OF VACANT IN-BAND CHANNELS SHOULD ONLY BE AUTHORIZED AFTER ALL LPTV AND TV TRANSLATOR DISPLACED LICENSES AND PERMITS ARE ALLOWED TO FILE FOR NEW CHANNEL ASSIGNMENTS. ANY CHANGE IN LPTV RIGHTS IS PROHIBITED DURING THE AUCTION AND REPACKING PROCESS, AND BY AGREEING TO IN-BAND VACANT CHANNEL USE WOULD MEAN THAT IT COULD NOT BE IMPLEMENTED UNTIL MONTH 40 OF THE REPACK, WHICH NO ONE WANTS!

7. TEGNA, INC.

- a. We disagree with TEGNA when they state, “*The Commission should allow broadcasters to use vacant in-band channels to serve as temporary host facilities, as proposed in the NPRM.*”; and, “*The Commission should align the deployment of Next Generation TV with the spectrum auction repack.*”

Again, allowing use of so-called vacant channels, especially during the 39-month repacking period, would undermine the rights of LPTV and TV translators to find new channels due to being displaced by the auction and repack. The FCC should not take potential available channels away for next gen use instead of them being used to fulfill the FCC’s LPTV “right of displacement”, as authorized and confirmed by Congress in the incentive auction legislation, and all subsequent FCC auction and repacking rulemakings related to LPTV and TV translators.

8. UNIVISION COMMUNICATIONS, INC.

- a. We disagree with UNIVISION when they state, “...*the Commission should continuously reassess the 39 month repack timeframe in light of the challenges of the post-Incentive Auction repack, and with the goal of facilitating deployment of ATSC 3.0 so that broadcasters are not forced to upgrade equipment twice (once for the repack and once for the ATSC 3.0 transition) based on an artificial timetable.*”

UNIVISION seems to have forgotten that the official incentive auction repacking schedule is cast in stone, and only through extraordinary methods may it be changed. The FCC has repeatedly affirmed that the schedule is the schedule, and only for very dire repacking concerns may it be

changed. And this certainly does not include providing the auction the displaced primaries an advantage over the non-displaced primaries, by giving them the ability to use relocation funding for 3.0 equipment upgrades.

- b. We disagree with UNIVISION when they state, *“By allowing broadcasters to use vacant channels to deploy ATSC 3.0 transmission where possible, the Commission would be facilitating efficiency and innovation.”*

UNIVISION, while acknowledging the fact that LPTV was instrumental in its own early development and growth, forgets that without that early access to spectrum, it may not be the company it is today. We are surprised that they are now advocating for the use of vacant channels, without even asking a question about the impact to the LPTV repacking process.

- c. We disagree with UNIVISION when they state, *“the Commission should make clear that broadcasting ATSC 3.0 signals, and/or the carriage of another licensee’s signal, should not alter the ownership attribution calculus. As in the original digital transition, the addition of an ATSC 3.0 transmission alongside a legacy ATSC 1.0 service should not be deemed to be the operation of a second television station attributable to the licensee and/or its parent organization under the multiple ownership rules.”*

When it looks like a duck, walks like a duck, and quacks like a duck, well you know what it is. By advocating for the use of two (2) channels to simulcast 1.0 and 3.0, UNIVISION wants their current licensed authorization to double.

9. PUBLIC MEDIA COMPANY (PMC)

- a. We agree with PMC when they state, *“Public television stations are ideal partners to host the ATSC 1.0 simulcast programming of commercial stations converting to ATSC 3.0 because they are not perceived as competitors for advertising revenue.”*
- b. We disagree with PMC when they state, *“PMC urges the FCC to allow as much flexibility as possible to use FCC spectrum auction repack reimbursement money for Next Gen TV-capable equipment.”*

The FCC has repeatedly ruled that incentive auction relocation funding is not to be used for next gen specific equipment, i.e., the exciter. So yes, PMC clients may have to pay for that out of their own funding. It would be an unfair trade advantage to use funding Congress never intended it for.

10. NCTA – THE INTERNET & TELEVISION ASSOCIATION (NCTA)

- a. We disagree with NCTA when they state, *“Cable operators carry low power stations, either pursuant to mandatory carriage in a handful of instances or, more commonly, through voluntary carriage arrangements. While the Notice suggests that low power stations may face ‘difficulties . . . in serving as hosts for full power originating stations,’ allowing ‘LPTV/Class*

A stations the option to deploy ATSC 3.0 service without simulcasting (i.e., flash-cut to ATSC 3.0)’ is not the answer.”

NCTA needs to back up their claim that allowing flash-cut works against their interests. First, how many stations do they think would be affected by this? Less than 50 have mandatory cable carriage in the smallest of markets. Since all other cable LPTV deals are leased access or retransmission consent deals, both of which have contract terms which control the signaling, they are covered. But these are also small numbers, and we really do not know the details, since NCTA has never published any data of LPTV carriage. Same with the FCC, no data about LPTV cable carriage rates and contract terms.

Flash cutting for LPTV and Class A’s is essential in order to compete against the corporate welfare rigged broadcast/cable business model. The vast majority of LPTV are NOT carried on cable MVPD, and those that are, are mostly under a controlled contract.

- b. We conditionally agree with NCTA when they propose, “...*low power stations should be required at their own expense to convert their ATSC 3.0 signal to an ATSC 1.0 signal so cable operators carrying the signal before the launch of the new format will be able to continue to carry the low power station without incurring additional costs.*”

The conditions are that NCTA provide LPTV cable usage data, and the ranges of contract terms for industry comparisons. And while we are asking, throw in that NCTA will agree to LPTV must carry in all TV markets where the incentive auction stations were sold. And that an equal number of streams be substituted

11. AMERICAN TELEVISION ALLIANCE (ATVA)

- a. We agree with ATVA when they state, “...*require stations with significantly viewed status to simulcast over their own facilities. Or...permit them to simulcast only on a host station deemed significantly viewed in each of the counties where the station itself qualifies for such treatment under existing rules.*”
- b. We disagree with ATVA when they propose, “*Although the Notice proposes to allow full-power broadcasters to transition to ATSC 3.0 gradually, it also raises the possibility that low-power and Class A stations might be allowed to “flash-cut” from ATSC 1.0 to ATSC 3.0. The Commission should reject this option, however, as it is unnecessary for the industry-wide transition and will certainly harm over-the-air and MVPD viewers.*”

ATVA claims that LPTV flash-cuts are unnecessary for the industry-wide transition to 3.0. How does ATVA know this? Have they done an OTA next gen deployment study for LPTV? And they claim it will harm OTA viewers, and MVPD viewers, but do not say how.

- c. We agree with ATVA when it recommends, “*At some point, ATSC 3.0 television offerings may become so individualized that they no longer constitute “broadcasting” as the Act defines that term. This, in turn, could lead to any number of potential adverse consequences for broadcasters*

and MVPDs alike. The Commission may wish to consider exactly where that point lies sooner rather than later in order to avoid uncertainty for broadcasters, MVPDs, and others.”

12. VERIZON

- a. We agree with VERIZON when it recommends, “*...if the Commission permits a broadcast station to initiate broadcasts in ATSC 3.0 without a simulcast ATSC 1.0 signal – prior to any mandatory transition date – it must allow MVPDs to carry that signal in another format, for example, down converting the signal to ATSC 1.0, or obtaining delivery of an ATSC 1.0 signal by wire.*”

It only makes sense for those few LPTV which have cable carriage, either by rule or by contract, and which are flash-cutting to 3.0, to provide an ATSC 1.0 stream to the MVPD, to maintain their current programming. However, for the vast majority of LPTV, almost all of which do not have MVPD carriage, flash cutting to 3.0 will not create any problem what-so-ever for the MVPD.

13. CTIA

- a. We agree with CTIA when they state, “*The Commission should ensure that the ATSC 3.0 transition, which appears to be in its early stages, is not used to delay the 39-month transition governing the 600 MHz incentive auction repacking process.*”
- b. We agree with CTIA when they state, “*...broadcasters should be responsible for any costs associated with ATSC 3.0 equipment that are beyond the costs associated with repacking based on current technology.*”
- c. We agree with CTIA when they state, “*The Commission should take this opportunity to revisit and update its ancillary services rules to ensure that those fees are set to ensure regulatory parity and reflect broadcasters’ evolving business ambitions.*”

14. THE WIFI ALLIANCE

- a. We agree with WIFI when they state, “*Channels that are vacant after the incentive auction should not be used to host facilities for ATSC 1.0 or ATSC 3.0 transmissions.*”

The primary broadcasters should not be given a second channel for 3.0 broadcasting simply because they do not have adequate spectrum do offer both 1.0 and 3.0 at the same time. By asking for a second channel, especially during the post incentive auction, the spectrum usage rights that Congress provides LPTV in the auction legislation would be negated. However, if after the special LPTV displacement window, and the subsequent LPTV displaced construction permit window has been completed, and the 1000s of displaced stations and permits have new channels, well of course the primaries can grab the spectrum they need.

- b. We disagree with WIFI when they attempt to use the Vacant Channel NPRM as the basis for any decisions in this proceeding. No vacant channel rules have been passed by the Commission, and the licensed and permitted LPTV spectrum takes precedent over TV white space devices under all current rules. In addition, the FCC has never conducted any study of impacts on displaced LPTV and translators, and as such, can not make any determination in this proceeding about reserving vacant channels for unlicensed use, without first studying these impacts.

15. MICROSOFT

- a. We sympathize with MICROSOFT when they say, *“Uncertainty about the number of UHF white spaces that will be available after the Incentive Auction has been especially harmful because investors must know that sufficient spectrum will be available for personal/portable devices in major markets before they will make the necessary investments to support a truly thriving white-spaces ecosystem.”*

MICROSOFT and the TVWS supporters need to understand that licensed and permitted LPTV and TV translators have a priority over them in all cases, for all so called white space, and that is the law. Just because the previous FCC had an NPRM about vacant channels, those rules have not been passed, and are not operative nor relative to this Proceeding. Any and all available channels post primary modifications are to be available for the 1000s of licensed and permitted displaced LPTV and TV translators. It needs to be said that for years now there has been more than adequate available channels in the TV band for TVWS services to take hold, but none have. These advocates misconstrue their priority and status in the pecking order, which we believe is due to the previous FCC majority giving them whatever they wanted, while now, the focus has shifted back to broadcasters first in the broadcast band.

- b. We agree with MICROSOFT when they state, *“The Commission must make clear from the outset of this inquiry, however, that it will not grant broadcasters valuable new spectrum rights by protecting stations from interference beyond their existing noise-limited contours.”*

The reason we agree with MICROSOFT is that LPTV would be very much disadvantaged if the primaries are allowed to extend their contours beyond what they have now, and especially within the 39-month framework of the repack. In almost 20% of all instances, LPTV and TV translators occupy the same channel as another secondary licensee, or that of a primary. By extending the contours many if not most of these LPTV will be displaced yet again.

16. DYNAMIC SPECTRUM ALLIANCE (DSA)

- a. We agree with DSA when they state, *“DCA urges the Commission not to expand broadcasters’ spectrum rights by allowing them to claim white spaces for ATSC 1.0 (or ATSC 3.0) simulcasts”;*
- b. We disagree with DSA when they state, *“By ensuring that there are at least three usable channels in every market for TVWS devices, the Commission will spur further innovation and investment.”*

Reserving three 6-MHz channels in each market for the mythical TVWS industry is totally outside of the scope of this proceeding.

17. CONSUMERS UNION, PUBLIC KNOWLEDGE, AND NEW AMERICA'S OPEN TECHNOLOGY INSTITUTE (PUBLIC ADVOCATES)

- a. We disagree with PUBLIC ADVOCATES when they state. *"We, along with leading chipmakers and other tech industry stakeholders, have steadfastly maintained that the post-incentive auction band plan must ensure at least three channels of 6 megahertz of unlicensed access in every market nationwide, especially in the most populated metro markets, to enable many emerging unlicensed use cases and the economic."*

Let's see, PUBLIC ADVOCATES wasted a year of our lives in the auction rulemaking because of their wanting these three free channels for unlicensed use, i.e., for Google and Microsoft. Two of the biggest companies in the world refusing to buy spectrum rights, but wanting them for free use. For over 5 years now these unlicensed spectrum advocates have NOT done anything to advance their proposal, have had all kinds of open spectrum in all markets to use, yet have done nothing to build out their marketplace. And they must understand that they are on the lowest priority when it comes to available spectrum, with licensed and permitted LPTV and translators in front of them for what is available.

18. NATIONAL PUBLIC RADIO (NPR)

- a. We disagree with NPR when they state, *"because DTV Channel 6 stations and NCE FM reserved spectrum stations operate using immediately adjacent broadcast spectrum, the potential cross-service interference has been an issue for the Commission and the affected services for decades. It is surprising, therefore, that while the NPRM invited comment on "the issue of interference that ATSC 3.0 signals may cause to non-television services that operate within or adjacent to the TV band," it failed to acknowledge the history of and potential for interference between DTV channel 6 stations and reserved FM band NCE stations."*

THIS IS FACT NEWS! THERE ARE NO REPORTED CASES OF INTERFERENCE FROM A CHANNEL 6 WHICH IS AFFECTING ANY NPR STATION, NONE! THE CHANNEL 6 AURAL SERVICE IS COMPLETELY LEGAL AND FULLY AUTHORIZED BY THE FCC. NPR DOES NOT LIKE IT SINCE IT TAKES AWAY WHAT THEY PERCEIVE AS "THEIR" PART OF THE RADIO DIAL.

Further, the analog channel 6's has until the end of the 39-month repacking schedule to stay analog, and at any time may flash cut to a digital 6. There are no recorded instances of a digital channel 6 limiting or interfering with an NPR affiliate, where's the beef?

19. GATES AIR

- a. We disagree with GATES AIR when it states, “*As another catalyst to encourage adoption, the Commission could consider providing broadcasters additional flexibility in deploying ATSC 3.0, such as by allowing broadcasters to use vacant in-band channels remaining in a market after the incentive auction repack. Such channels could serve as temporary host facilities for ATSC 1.0 or ATSC 3.0 programming.*”

As we have previously stated, the use of so-called vacant channels for simulcasting can not be authorized due to the already implemented 39-month displacement repacking process. We realize GATES AIR wants to sell more transmitters etc., but the table has already been set during the 39-month repack. However, when the special LPTV displacement window, and the subsequent displaced LPTV construction permit window has been completed, around the end of 2019, then, at that time, it would appropriate for whichever channels are then available, be used for simulcasting.

Respectfully submitted

_____/signature/____

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